

**Executive Summary – Enforcement Matter – Case No. 44926**  
**American Marazzi Tile, Inc.**  
**RN100218080**  
**Docket No. 2012-1795-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

American Marazzi Tile Sunnyvale Facility, 359 Clay Road, Sunnyvale, Dallas County

**Type of Operation:**

Ceramic tile manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2012-0216-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 4, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,576

**Amount Deferred for Expedited Settlement:** \$1,915

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$7,661

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44926**  
**American Marazzi Tile, Inc.**  
**RN100218080**  
**Docket No. 2012-1795-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 30, 2012

**Date(s) of NOE(s):** September 5, 2012

***Violation Information***

1. Failed to submit a Permit Compliance Certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the January 10, 2011 through January 9, 2012 certification period was due by February 8, 2012, but it was not received until February 16, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit ("FOP") No. O-1147, General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the July 10, 2011 through January 9, 2012 reporting period was due by February 8, 2012, but it was not received until February 16, 2012 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O-1147, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to report all instances of deviations. Specifically, the deviation related to the failure to submit a timely semi-annual deviation report for the January 10, 2010 through July 9, 2010 reporting period was not included as a deviation in the semi-annual deviation report for the July 10, 2010 through January 9, 2011 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O-1147, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures at the Plant:

a. By August 8, 2011, submitted a semi-annual deviation report for the July 10, 2010 through January 9, 2011 reporting period to include all deviations; and

b. By February 16, 2012, submitted a PCC for the January 10, 2011 through January 9, 2012 certification period and a deviation report for the July 10, 2011 through January 9, 2012 reporting period

**Technical Requirements:**

The Order will require Respondent to:

a. Within 30 days:

**Executive Summary – Enforcement Matter – Case No. 44926**  
**American Marazzi Tile, Inc.**  
**RN100218080**  
**Docket No. 2012-1795-AIR-E**

- i. Implement procedures designed to ensure that semi-annual deviation reports are complete, accurate, and submitted within 30 days after the end of each deviation reporting period; and
  - ii. Implement procedures designed to ensure that PCCs are complete, accurate, and submitted within 30 days after the end of each certification period.
- b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions a.i. and a.ii.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Gianni Mattioli, President, American Marazzi Tile, Inc., 359 Clay Road, Sunnyvale, Texas 75182  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES**

**Assigned PCW**

4-Sep-2012

20-Sep-2012

**Screening**

5-Sep-2012

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** American Marazzi Tile, Inc.

**Reg. Ent. Ref. No.** RN100218080

**Facility/Site Region** 4-Dallas/Fort Worth

**Major/Minor Source** Major

## CASE INFORMATION

**Enf./Case ID No.** 44926

**Docket No.** 2012-1795-AIR-E

**Media Program(s)** Air

**Multi-Media**

**No. of Violations** 1

**Order Type** 1660

**Government/Non-Profit** No

**Enf. Coordinator** Jorge Ibarra, P.E.

**EC's Team** Enforcement Team 3

**Admin. Penalty \$ Limit Minimum** \$0

**Maximum**

\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$100

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

**26.0%** Enhancement

**Subtotals 2, 3, & 7** \$26

**Notes**

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability; and reduction for one Notice of Intent to conduct an audit.

**Culpability**

No

**0.0%** Enhancement

**Subtotal 4** \$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5** \$0

**Economic Benefit**

Total EB Amounts \$6

Approx. Cost of Compliance \$250

**0.0%** Enhancement\*

\*Capped at the Total EB \$ Amount

**Subtotal 6** \$0

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$126

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

**0.0%**

**Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$126

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty** \$126

**DEFERRAL**

**20.0%**

Reduction

**Adjustment** -\$25

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**\$101**

Screening Date 5-Sep-2012

Docket No. 2012-1795-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44926

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability; and reduction for one Notice of Intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 26%

Screening Date 5-Sep-2012

Docket No. 2012-1795-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44926

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-1147, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to report all instances of deviations. Specifically, the deviation related to the failure to submit a timely semi-annual deviation report for the January 10, 2010 through July 9, 2010 reporting period was not included as a deviation in the semi-annual deviation report for the July 10, 2010 through January 9, 2011 reporting period.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1%

Matrix Notes

25% of the rule requirement was not met (1 out of 4 instances).

Adjustment \$9,900

\$100

## Violation Events

Number of Violation Events 1

181 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
Single event	x

Violation Base Penalty \$100

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$126

This violation Final Assessed Penalty (adjusted for limits) \$126

# Economic Benefit Worksheet

**Respondent** American Marazzi Tile, Inc.

**Case ID No.** 44926

**Reg. Ent. Reference No.** RN100218080

**Media** Air

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	8-Feb-2011	8-Aug-2011	0.50	\$6	n/a	\$6

**Notes for DELAYED costs**

Estimated cost to submit a complete deviation report. The Date Required is the date the deviation report was due and the final date is the expected compliance date. The cost to implement procedures to ensure that all reporting requirements are complete and timely submitted is included in the economic benefit for violation No. 1 of accompanying PCW.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$250

**TOTAL**

31

\$6





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**  
**DATES**

**Assigned PCW**

4-Sep-2012  
20-Sep-2012

**Screening**

5-Sep-2012

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** American Marazzi Tile, Inc.

**Reg. Ent. Ref. No.** RN100218080

**Facility/Site Region** 4-Dallas/Fort Worth

**Major/Minor Source** Major

## CASE INFORMATION

**Enf./Case ID No.** 44926

**Docket No.** 2012-1795-AIR-E

**Media Program(s)** Air

**Multi-Media**

**No. of Violations** 2

**Order Type** 1660

**Government/Non-Profit** No

**Enf. Coordinator** Jorge Ibarra, P.E.

**EC's Team** Enforcement Team 3

**Admin. Penalty \$ Limit Minimum** \$0

**Maximum**

\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$7,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

**26.0%** Enhancement

**Subtotals 2, 3, & 7** \$1,950

**Notes**

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability; and reduction for one Notice of Intent to conduct an audit.

**Culpability**

No

**0.0%** Enhancement

**Subtotal 4** \$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5** \$0

**Economic Benefit**

Total EB Amounts \$43

Approx. Cost of Compliance \$750

**0.0%** Enhancement\*

\*Capped at the Total EB \$ Amount

**Subtotal 6** \$0

## SUM OF SUBTOTALS 1-7

**Final Subtotal** \$9,450

## OTHER FACTORS AS JUSTICE MAY REQUIRE

**0.0%**

**Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$9,450

## STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** \$9,450

## DEFERRAL

**20.0%**

Reduction

**Adjustment** -\$1,890

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

## PAYABLE PENALTY

**\$7,560**

Screening Date 5-Sep-2012

Docket No. 2012-1795-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44926

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability; and reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 26%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 26%

Screening Date 5-Sep-2012

Docket No. 2012-1795-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44926

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-1147, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a permit compliance certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the January 10, 2011 through January 9, 2012 certification period was due by February 8, 2012, but it was not received until February 16, 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

8 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,750

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$4,725

This violation Final Assessed Penalty (adjusted for limits) \$4,725

# Economic Benefit Worksheet

**Respondent** American Marazzi Tile, Inc.  
**Case ID No.** 44926  
**Reg. Ent. Reference No.** RN100218080  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	8-Feb-2012	1-Apr-2013	1.15	\$29	n/a	\$29
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the PCC and to implement procedures to ensure that all reporting requirements are complete and timely submitted. The Date Required is the date the PCC was due and the final date is the expected compliance date.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$29

Screening Date 5-Sep-2012

Docket No. 2012-1795-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44926

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-1147, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

## Violation Description

Failed to submit a deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the July 10, 2011 through January 9, 2012 reporting period was due by February 8, 2012, but it was not received until February 16, 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

8 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$4,725

This violation Final Assessed Penalty (adjusted for limits) \$4,725

# Economic Benefit Worksheet

**Respondent** American Marazzi Tile, Inc.  
**Case ID No.** 44926  
**Reg. Ent. Reference No.** RN100218080  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$250	8-Feb-2012	1-Apr-2013	1.15	\$14	\$14

**Notes for DELAYED costs**

Estimated cost to submit a deviation report. The Date Required is the date the deviation report was due and the final date is the expected compliance date. The cost to implement procedures to ensure that all reporting requirements are complete and timely submitted is included in the economic benefit for violation No. 1.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$250

**TOTAL**

\$14



# Compliance History Report

**PENDING** Compliance History Report for CN600129522, RN100218080, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600129522, American Marazzi Tile, Inc.	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 5.33
<b>Regulated Entity:</b>	RN100218080, AMERICAN MARAZZI TILE SUNNYVALE FACILITY	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 5.33
<b>Complexity Points:</b>	8	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	359 CLAY RD SUNNYVALE, TX 75182-9710, DALLAS COUNTY		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		
<b>ID Number(s):</b>			
<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER DB1073N	<b>AIR OPERATING PERMITS</b> PERMIT 1147		
<b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P01948	<b>AIR NEW SOURCE PERMITS</b> PERMIT 19841		
<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER DB1073N	<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4811300737		
<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD039718796	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 33665		
<b>STORMWATER</b> PERMIT TXR05AV21	<b>IHW CORRECTIVE ACTION</b> SOLID WASTE REGISTRATION # (SWR) 33665		
<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER DB1073N			
<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012
<b>Date Compliance History Report Prepared:</b>	September 18, 2012	<b>Rating Date:</b>	09/01/2012
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	September 17, 2007 to September 17, 2012		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Jorge Ibarra, P.E.	<b>Phone</b>	(817) 588-5890

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 05/08/2011 ADMINORDER 2010-1613-AIR-E (1660 Order)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: Special Condition No. 1 PERMIT  
 Description: Failed to comply with the MAERs for the Kiln A Pre-Dryer Stack [Emission Point No. ("EPN") KD-A] and Kiln A Layer 1 and 2 Stacks (EPNs KS-A1 and KS-A2, respectively) based on stack tests conducted on October 27, 2008. Specifically, the MAERs for particulate matter, CO, VOC, and SO2 were exceeded, resulting in the unauthorized release of 4.39 tons of particulate matter, 36.18 tons of CO, 21.56 tons of VOC, and 33.31 tons of SO2 from October 27, 2008 through February 10, 2010.

### B. Criminal convictions:

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	November 20, 2008	(707438)
Item 2	May 29, 2009	(746359)
Item 3	August 03, 2009	(763229)
Item 4	October 06, 2009	(777173)
Item 5	November 10, 2010	(870481)
Item 6	December 14, 2010	(871942)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 06/04/2012 (1008089)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 101, SubChapter A 101.10(e) 5C THSC Chapter 382 382.085(b)	
	Description: Failure to submit a 2011 Emissions Inventory. CATEGORY B19 (g)(3)	
2	Date: 09/05/2012 (1021182)	CN600129522
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) Special Condition 1 PERMIT	
	Description: Failure to comply with the requirements of 30 TAC 116.115(b)(2)(F), by exceeding the allowable emission rate, as listed on the Maximum Allowable Emission Rate Table for hydrogen fluoride and hydrogen chloride.	
	Self Report? NO	Classification: Moderate
	Citation: Special Condition No. 13 PERMIT 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)	
	Description: Failure to comply with Permit No. 19841, Special Condition No. 13, by exceeding the average annual sulfur concentration limit for the white body material used.	

**F. Environmental audits:**

Notice of Intent Date: 05/13/2010 (825658)  
No DOV Associated

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

**Pending** Compliance History Report for CN600129522, RN100218080, Rating Year 2012 which includes Compliance History (CH) components from September 17, 2007, through September 17, 2012.



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AMERICAN MARAZZI TILE, INC.  
RN100218080**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1795-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding American Marazzi Tile, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a ceramic tile manufacturing plant at 359 Clay Road in Sunnyvale, Dallas County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 10, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Five Hundred Seventy-Six Dollars (\$9,576) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Six Hundred Sixty-One Dollars (\$7,661) of the administrative penalty and One Thousand Nine Hundred Fifteen Dollars (\$1,915) is deferred contingent upon the Respondent's timely and

satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. By August 8, 2011, submitted a semi-annual deviation report for the July 10, 2010 through January 9, 2011 reporting period to include all deviations; and
  - b. By February 16, 2012, submitted a permit compliance certification ("PCC") for the January 10, 2011 through January 9, 2012 certification period and a deviation report for the July 10, 2011 through January 9, 2012 reporting period.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a PCC within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. O-1147, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 30, 2012. Specifically, the PCC for the January 10, 2011 through January 9, 2012 certification period was due by February 8, 2012, but it was not received until February 16, 2012.
2. Failed to submit a deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating

Permit No. O-1147, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 30, 2012. Specifically, the deviation report for the July 10, 2011 through January 9, 2012 reporting period was due by February 8, 2012, but it was not received until February 16, 2012.

3. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-1147, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 30, 2012. Specifically, the deviation related to the failure to submit a timely semi-annual deviation report for the January 10, 2010 through July 9, 2010 reporting period was not included as a deviation in the semi-annual deviation report for the July 10, 2010 through January 9, 2011 reporting period.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: American Marazzi Tile, Inc., Docket No. 2012-1795-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement procedures designed to ensure that semi-annual deviation reports are complete, accurate, and submitted within 30 days after the end of each deviation reporting period; and
    - ii. Implement procedures designed to ensure that PCCs are complete, accurate, and submitted within 30 days after the end of each certification period.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a

written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

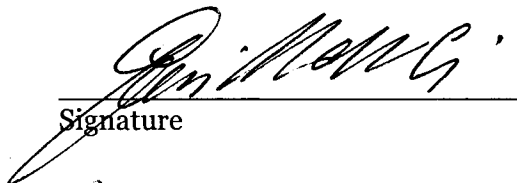
2/13/13  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

11/1/12  
\_\_\_\_\_  
Date

GIANNI MATTIOLI  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
American Marazzi Tile, Inc.

President  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.